THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.164 of 2006

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13th March 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20.08.2005 in W.P.NO.9296 OF 2005 on the file of the High Court.)

Between:

1. The Divisional Engineer, M.R.T., APCPDCL, Mint Compound, Hyderabad.

And one other.

...APPELLANTS

AND

Bahabood Ali, S/o.Hasim Ali.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.164 OF 2006

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard both the sides.

At their request, the Writ Appeal itself is taken up for disposal at the admission stage.

The appellants seek to assail the order dated 20.08.2005 in the Writ Petition being W.P.No.9296 of 2005 filed at the instance of the respondent/employee, wherein he sought a writ of mandamus declaring the action of the appellants in not releasing his terminal benefits and pension as arbitrary and illegal.

The main submission made on behalf of the appellants is that at the time of disposal of the Writ Petition, they could not file a detailed counter affidavit pointing out the merits as to why and to what extent they are liable to pay the amounts as claimed for by the appellant. Therefore, it is contended that there is no proper

opportunity given to them.

During the course of arguments in this appeal, the appellants were directed to file counter affidavit. Accordingly, counter affidavit has been filed. Now the respondent seeks time to file reply affidavit. Having regard to the fact that the counter affidavit is filed and the respondent is seeking time for filing reply, it amply shows that the case is quite arguable one and therefore, the matter requires to be heard again.

Accordingly, the Writ Appeal is allowed. The order dated 20.08.2005 in W.P.No.9296 of 2005 passed by the learned Single Judge is set aside with a direction to dispose of the Writ Petition afresh on merits. No costs.

Office is directed to post Writ Petition No.9296 of 2005 before the learned Single Judge 'For Final Hearing'.

Meanwhile, the respondent can as well file reply affidavit to the counter affidavit.

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(B.PRAKASH RAO, J)

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(D.APPA RAO, J)

13th March 2006

RRB

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